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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,404	10/29/2003	Christopher J. Willems	325-010	7261
33354	7590	07/17/2008	EXAMINER	
ETHERTON LAW GROUP, LLC			WINNER, TONY H	
5555 E. VAN BUREN STREET, SUITE 100			ART UNIT	PAPER NUMBER
PHOENIX, AZ 85008			3611	
MAIL DATE		DELIVERY MODE		
07/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/697,404	Applicant(s) WILLEMS ET AL.
	Examiner Tony H. Winner	Art Unit 3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 March 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 20 and 21 is/are allowed.
- 6) Claim(s) 1, 2, 4-6, 8-16, and 18-19 is/are rejected.
- 7) Claim(s) 3,7 and 17 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

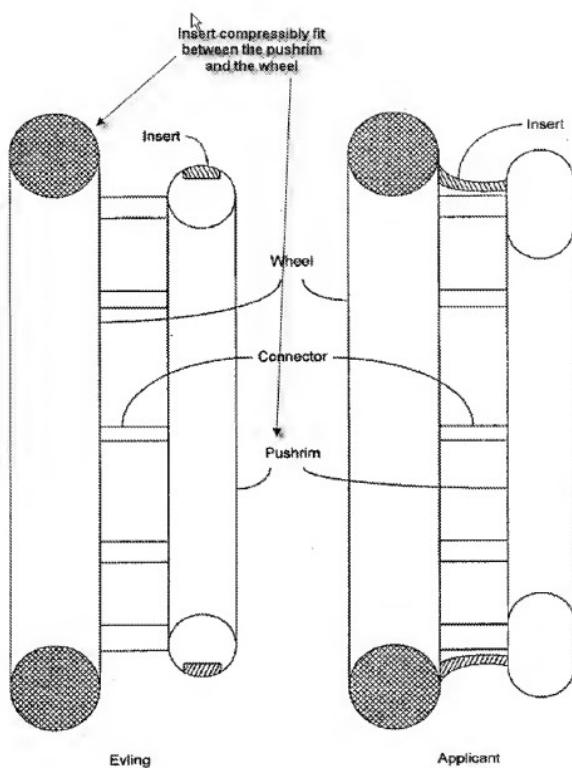
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 8, 9, 12, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Evling (USPN. 5,927,739).

Evling discloses a wheelchair pushrim system (figures 1 and 4) comprising:

- a. a hollow and smooth pushrim (abstract 22 and 24);
- b. a wheel (92) connected to the pushrim;
- c. a connector (94) connecting the pushrim to the wheel; and
- d. an elastic insert (100 and col 5 lines 59) compressibly fit between the pushrim and the wheel (see illustration);
- d. wherein the elastic insert can also be made out of rubber or neoprene, or silicon (col 5 lines 59).

With regard to claims 8 and 18, the Examiner takes position that if the insert is made of neoprene or the combination of , than it surface would have a gripping texture.



Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 10, 11, 13-16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evling in view of Goding et al. (USPN. 7,204,503 B2).

Regarding claims 5-6 and 13-16 Evling is disclosed above but lacks a pushrim with an elongated circular or oval cross section.

Goding teaches a pushrim for a wheelchair with various cross-sectional shapes (e.g. circular, oval, elliptical, convex, Etc..) so as to facilitate the gripping of the pushrim with the user's fingers.

Therefore, it would have been obvious to one skilled in the art to modify the shape of the pushrim of Evling to include the non-circular cross section as taught by Goding, for the reasons set forth above.

With regard to claims 10-11, Evling discloses the claimed invention but lacks the teaching that the pushrim is connected to the wheel by means of tab mount or rivet-nut mount. However, Evling discloses the pushrim may be attached to the wheel by means of bolts, bushings, bars, clamps, couplers welding, pins, or other fastener. Therefore, it would have been an obvious matter of design choice to attach the pushrim to the

wheelchair by means of tab-mount or rivet-nut mount as required by a particular application.

Regarding claim 19, Evling (figures 2-4) shows the pushrim has a substantial smooth texture.

Response to Arguments

3. Applicants' arguments filed 3/27/08 have been fully considered but they are not persuasive.

The following are the applicant's arguments listed in alphabetical order.

a. the insert does not fit between the pushrim and the wheel.

Response – as illustrated in the drawings above, the insert is fitted between the rim and the wheel.

b. the insert does not come in contact with the wheel and does not enter the space between the wheel and the pushrim.

Response – the office will not address this argument, since these limitations are recited in the claims.

c. Evling does not disclose a pushrim having a non-circular cross section.

Response – Moot in view of Goding (USPN. 7,204,503 b2).

d. No insert between wheel and pushrim (e.g. traction ring of Evling is not an insert).

Response – Regardless of the terminology use, traction ring is construed as an insert as the structure is inserted into the pushrim.

e. traction ring completes circumference of pushrim.

Response – regardless of the traction ring (insert) structure, it meets all of the structural/functional limitations in the broadest sense.

f. the cross sectional shape of the pushrim is not a matter of design choice.

Response - Moot in view of Goding (USPN. 7,204,503 b2).

Allowable Subject Matter

4. Claims 3, 7, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 20-21 are allowed.

Conclusion

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. The fax phone number for the organization where this application or proceeding is (571) 273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.

/Tony H. Winner/
Primary Examiner, Art Unit 3611
July 15, 2008